

HEPBURN T. ARMSTRONG

IBLA 81-951

Decided November 24, 1981

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting in part oil and gas lease offer NM 42787.

Decision set aside; case remanded.

1. Oil and Gas Leases: Known Geologic Structure -- Rules of Practice: Appeals: Generally

Where, on appeal, an oil and gas lessee submits evidence disputing a decision of BLM that a portion of the land embraced by his lease is on a known geologic structure of a producing oil or gas field, and there is no basis in the record to support BLM's determination, the decision will be set aside and the case remanded for consideration by BLM of appellant's contentions.

APPEARANCES: Hepburn T. Armstrong, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Hepburn T. Armstrong appeals from a decision dated July 2, 1981, by the New Mexico State Office, Bureau of Land Management (BLM), rejecting oil and gas lease offer NM 42787 as to 40 acres described as T. 19 S., R. 24 E., New Mexico principal meridian, sec. 26, SW 1/4 NE 1/4, for the reason that these lands were within an undefined unnamed known geologic structure (KGS), and could, therefore, be leased only through competitive bidding. 1/

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1/ The decision issued the lease (NM 42787) as to the following described 440 acres: T. 20 S., R. 24 E., New Mexico principal meridian, sec. 10: E 1/2, sec. 14: E 1/2 SW 1/4, sec. 22: SW 1/4 SE 1/4.

Appellant contends on appeal that the 40 acres in question should not have been designated as being within a KGS. Appellant has submitted the "Geological Report on Part of Eddy County, NM" prepared for him by petroleum geologist C. E. Dorsey. This report, dated January 5, 1981, discusses the geology of the area at issue. In his statement of reasons appellant draws attention to portions of the report which would militate against the inclusion of the area in a KGS. Appellant also alleges that he had offered the lease to dozens of producers and companies before finding one potential purchaser. Appellant attributes this lack of interest to the fact that the area is composed of stratigraphic sand traps in which there has been no discovery, by drilling, of accumulations of oil or gas.

Insofar as we can determine, BLM has not evaluated the data in the report of appellant's geologist, and the Regional Solicitor's Office has declined to enter an appearance on appeal. The record does not contain any factual data used to support the determination as to KGS.

[1] The Board has in the past sustained KGS determinations in the absence of a clear and definite showing of error by one who challenges the KGS determination. In the case at bar, however, there is no basis on which to sustain the determination. The only evidence before us is the evidence to the contrary presented by appellant. On the state of the record, it is not clear whether the land herein should be classified as a KGS. Accordingly, we are vacating the decision of the State Office and remanding the case file for further consideration. Robert L. Haynie, 51 IBLA 1 (1980). The State Office should obtain a detailed analysis by the Geological Survey of the data set forth in the report of appellant's geologist. The response of the Geological Survey is to be served on appellant, except to the extent that it contains proprietary information which may not, by law, be released. The State Office should then make another decision, subject to the right of appeal.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision is set aside and the case file is remanded for further action consistent herewith.

Anne Poindexter Lewis  
Administrative Judge

We concur:

Douglas E. Henriques  
Administrative Judge

Bruce R. Harris  
Administrative Judge